

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 19, after line 30, begin a new paragraph and insert:
- 2 "SECTION 14. IC 36-1-20 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2010]:
- 5 **Chapter 20. Ethics**
- 6 **Sec. 1. As used in this chapter, "advisory body" means an**
- 7 **authority, a board, a commission, a committee, a task force, or**
- 8 **another body designated by any name of the political subdivision**
- 9 **that is authorized to make only nonbinding recommendations.**
- 10 **Sec. 2. As used in this chapter, "agency" means an authority, a**
- 11 **board, a branch, a bureau, a commission, a committee council, a**
- 12 **department, a division, an office, a service, or another**
- 13 **instrumentality of a political subdivision.**
- 14 **Sec. 3. As used in this chapter, "agency action" means a decision**
- 15 **of an agency regarding any of the following:**
- 16 **(1) The drafting, filing, introduction, consideration,**
- 17 **modification, enactment, or defeat of any proposal or other**
- 18 **matter by:**
- 19 **(A) the legislative body of the political subdivision;**
- 20 **(B) a committee of the legislative body of the political**
- 21 **subdivision; or**
- 22 **(C) a member or employee of the legislative body of the**
- 23 **political subdivision in the member's or employee's official**
- 24 **capacity.**

1 (2) The expenditure of the political subdivision's funds with
2 respect to the award of a contract or lease, or any other
3 financial arrangement under which funds are distributed or
4 allocated.

5 (3) The proposal, drafting, development, consideration,
6 promulgation, amendment, rejection, or repeal of a rule,
7 regulation, or policy by an agency.

8 Sec. 4. As used in this chapter, "appointee" means an individual,
9 other than an official or employee, who is elected or appointed to
10 an agency or advisory body.

11 Sec. 5. As used in this chapter, "clerk" refers to the following:

12 (1) Except as provided in subdivision (2), the circuit court
13 clerk of the county of a political subdivision that contains the
14 greatest percentage of population of the political subdivision.

15 (2) An agency other than the circuit court clerk designated by
16 an ordinance adopted by the legislative body of the political
17 subdivision to perform the functions of the clerk under this
18 chapter.

19 Sec. 6. As used in this chapter, "communication" means the
20 exchange of thoughts, messages, or information by contact in
21 person, telephone, letter, telegraph, facsimile, electronic mail, text
22 messaging, or any other form of transmission of information.

23 Sec. 7. As used in this chapter, "employer" means a person that
24 principally employs a lobbyist. The term does not include a person
25 that retains or contracts with a lobbyist only as an independent
26 contractor and does not directly employ that lobbyist.

27 Sec. 8. As used in this chapter, "employee" means an individual,
28 other than an official or appointee, who is employed by an agency
29 on a full-time, a part-time, a temporary, an intermittent, or an
30 hourly basis. The term includes an individual who contracts with
31 an agency for personal services.

32 Sec. 9. As used in this chapter, "engagement" means an
33 arrangement whereby a person receives financial consideration, in
34 the form of salary, retainer, compensation, or other fee, for or on
35 behalf of, an employer or real party in interest to:

36 (1) influence an agency action; or

37 (2) conduct any lobbying activity.

38 Sec. 10. As used in this chapter, "financial arrangement" means
39 the purchase or acquisition of property, an interest in property,
40 service, or other asset of an agency valued at more than ten
41 thousand dollars (\$10,000).

42 Sec. 11. (a) As used in this chapter, "lobbying activity" means
43 action or communication made to promote, delay, oppose, or
44 otherwise influence an agency action.

45 (b) The term does not include any of the following:

46 (1) The application or negotiation of an award for a state or
47 federal grant.

(2) The resolution of an outstanding tax matter, including audits, assessments, administrative appeals, claims for refund, or collection activity.

(3) Communication regarding the award of incentives related to an economic development project.

(4) Paid advertising communications that are disseminated to the public by radio, television, or a newspaper or periodical of general circulation.

(5) Any communications, including testimony submitted during public hearing or submitted in writing, at a meeting conducted under IC 5-14-1.5.

(6) A response to a request for proposal, an invitation for bid, a request for quote, or other solicitation made by an agency as provided in an applicable purchasing or public work statute or rules adopted under such a statute.

(7) Other public or private testimony or communications solicited by an agency.

(8) Action or communication made as a member of an advisory body.

Sec. 12. (a) As used in this chapter, "lobbyist" means an individual who is primarily employed and receives payment, or who contracts for financial consideration, of more than one thousand dollars (\$1,000) in a calendar year, for the purpose of engaging in lobbying activity.

(b) The term does not include any of the following:

(1) An official, appointee, or employee who attempts to influence an agency action that is within the scope of the individual's official duties or employment.

(2) An attorney or any other individual who represents a client in:

(A) a public hearing; or

(B) the investigation of a criminal or civil matter or ordinance violation.

(3) A person who represents a religious organization for the purpose of protecting the organization's constitutional rights.

(4) A newspaper or other periodical of general circulation, book publisher, news wire service, or radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical or radio or television station) that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisements that directly or indirectly urge agency action, if the newspaper, periodical, book publisher, radio or television station, or individual engages in no additional activities in connection with agency action.

(5) A person whose communication with an agency is for the sole purpose of gathering information relating to a bid,

procurement, permit, or public work that is produced in a public record.

(6) An individual acting:

(A) on the individual's own behalf; or

(B) under Article 1, Section 31 of the Constitution of the State of Indiana who assembles together with other individuals for the common good or petitions an agency for redress of grievances.

(7) An individual employed as a salesperson to sell goods and services.

(8) An individual who is invited by an agency or an official for the purpose of giving advice.

Sec. 13. (a) As used in this chapter, "official" means an individual who holds a local office (as defined in IC 3-5-2-29).

(b) The term does not include any of the following:

(1) A judge of a circuit court.

(2) A judge of a superior court.

(3) A judge of a county court.

(4) A judge of a probate court.

(5) A prosecuting attorney.

Sec. 14. As used in this chapter, "person" means an individual, a proprietorship, a partnership, an unincorporated association, a trust, a business trust, a group, a limited liability company, or a corporation, whether or not operated for profit.

Sec. 15. As used in this chapter, "real party in interest" means the person on whose behalf the lobbyist is acting, if that person is not the employer.

Sec. 16. (a) A political subdivision may adopt an ordinance relating to the ethics of the officials, former officials, employees, former employees, appointees, and former appointees of the political subdivision.

(b) An ordinance adopted under this section:

(1) may impose requirements that exceed the requirements of this chapter; and

(2) may not relieve the officials, employees, and appointees of the political subdivision of requirements imposed by this chapter.

(c) An ethics ordinance adopted under this section must provide for the following:

(1) The establishment of an ethics commission for the political subdivision.

(2) Enforcement powers for the political subdivision's ethics commission.

(d) An ethics ordinance adopted under this chapter may provide for the adoption of a local code of ethics.

(e) An ethics ordinance adopted under this chapter may provide other details that:

- (1) the legislative body considers appropriate; and
- (2) are not inconsistent with this chapter.

(f) This chapter does not supersede an ethics ordinance adopted by a political subdivision before July 1, 2010, to the extent that the ordinance is not inconsistent with this chapter.

Sec. 17. Not later than fifteen (15) working days after making contact with an agency regarding an agency action, a lobbyist shall file with the clerk a registration statement that contains the following information on a form provided by the clerk:

- (1) The name, business address, telephone number, electronic mail address, and occupation of the lobbyist.
- (2) The name, business address, telephone number, and electronic mail address of the:
 - (A) lobbyist's employer; and
 - (B) any real party in interest on whose behalf the lobbyist is acting, if it is different from the employer.
- (3) A brief description of the subject matter to which the engagement or engagements relate.
- (4) The identity of the agency or agencies to which the engagement or engagements relate.
- (5) A verified statement that in the course of engaging in any lobbying activity, the lobbyist has read and will comply with the code of ethics adopted by the political subdivision.

Sec. 18. (a) Not later than January 15 of each year, a lobbyist shall file with the clerk an annual report that contains the following information on a form provided by the clerk:

- (1) The name, business address, telephone number, electronic mail address, and occupation of the lobbyist.
- (2) The name, business address, telephone number, and electronic mail address of the lobbyist's principal employer.
- (3) The name, business address, and electronic mail address of each real party in interest represented by the lobbyist that has a continuing engagement described in the lobbyist's registration statement.
- (4) The total amount of payments received for each engagement during the previous calendar year.
- (5) A brief description of the subject matter for the lobbying activities in which the lobbyist was engaged during the previous calendar year.
- (6) The identity of the agency or agencies to which the lobbying activities during the previous calendar year were directed.
- (7) A description and the costs of any item of entertainment, food, drink, honoraria, travel expenses, and registration fees given or provided to an official, appointee, or employee. However, the following items need not be listed:
 - (A) Items with a fair market value of less than fifty dollars

1 (\$50).

2 (B) Items that are exempt under the political subdivision's
3 code of ethics.

4 (8) A verified statement certifying that in the course of
5 engaging in any lobbying activity during the previous
6 calendar year, the lobbyist has read and complied with the
7 political subdivision's code of ethics.

8 (b) A political subdivision's code of ethics may prescribe a fee
9 for a registration under this section. Registration fees shall be
10 deposited in the political subdivision's general fund.

11 Sec. 19. (a) If there is a material change to any information
12 contained in a registration statement or annual report under this
13 chapter, the lobbyist shall file an appropriate written amendment
14 with the clerk not later than fifteen (15) days after the change
15 occurs.

16 (b) A lobbyist shall file a written notice of termination with the
17 clerk not later than fifteen (15) days after the end of an
18 engagement. However, this notice does not relieve the lobbyist of
19 the duty to file an annual report.

20 Sec. 20. The clerk shall review the accuracy of registration
21 statements and other documents filed under this chapter, and may
22 require the lobbyist to submit verified statements and other
23 supporting documentation. The clerk shall notify a lobbyist of any
24 materially incorrect information or other deficiencies in the
25 registration statements or other documents, and not later than
26 thirty (30) days after receipt of such a notice, the lobbyist shall file
27 an amended statement or other document that satisfies all
28 requirements set forth in this chapter.

29 Sec. 21. (a) To facilitate public access to records regarding
30 lobbying activity, the clerk shall compile and maintain an index of
31 all registration statements and other documents filed under this
32 chapter.

33 (b) The clerk shall preserve registration statements and other
34 documents filed under this chapter for a period of at least four (4)
35 years after the date of receipt.

1 **Sec. 22. The clerk may suspend or revoke a lobbyist's**
2 **registration as provided in the political subdivision's code of ethics.**

3 **Sec. 23. A lobbyist may not give a gift of cash to an official,**
4 **employee, or appointee of the political subdivision."**

5 Renumber all SECTIONS consecutively.

(Reference is to HB 1001 as printed January 5, 2010.)

Representative Koch